

Task Force on Education and Workforce Development
Tentative Meeting Agenda

Annual Meeting 2015 | San Diego, California
Thursday, July 23, 2015
2:30 - 5:30 PM

Task Force Chairs:

Senator Howard Stephenson, *Utah*, and Mr. Jonathan Butcher, *Goldwater Institute*

- 2:30 p.m. Call to Order**
Welcome and Introductions
Approval of Minutes from Spring Task Force Summit
- 2:35p.m. Recognition and Award Presentation, Former Public Sector Chair**
Representative Greg Forristall, Iowa
- 2:40 p.m. Legislative Roundtable**
'Educational Savings Accounts'
- 3:20 p.m. Model Policy and Voting**
1. *Charter School Authorizing and Accountability Act*
2. *Charter School Funding and Facilities Act*
3. *Charter School Operations and Autonomy Act*
- 4:00 p.m. Presentation**
'Doing Less with Much Less and Getting More: Transforming American Higher Education'
- 4:20 p.m. Model Policy Amendments Presentation and Voting**
1. *Parental Choice Scholarship Program Act*
2. *Great Schools Tax Credit Program Act*
3. *Educational Savings Accounts Act*
- 4:50 p.m. Model Policy and Voting**
1. *Dual Language Immersion*
2. *1:1 Device Initiative Driven by Outcomes*

5:30 p.m. **Good of the Order/Adjournment**

To access an electronic copy of these documents, please visit:

<http://www.alec.org/task-forces/education/>

Memorandum

To: Members of the Task Force Education and Workforce
From: Lindsay Russell Dexter, Director, Education and Workforce
Date: June 18, 2015
Re: 35-Day Mailing – 2015 Annual Meeting

The American Legislative Exchange Council Annual Meeting will take place July 22-24 at the Manchester Grand Hyatt, San Diego, CA.

Education Subcommittee Meeting

Wednesday, July 22, 2015
8:30 a.m. – 11:20 a.m.

Joint Education and Tax Subcommittee

Wednesday, July 22, 2015
11:20 a.m. – 12:00 a.m.

Education Task Force Meeting

Thursday, July 23, 2015
2:30 p.m. – 5:30 p.m.

Enclosed Materials:

- Tentative Agenda for the Education Subcommittee Meeting
- Tentative Agenda for the Task Force on Education Meeting
- Task Force on Education Proposed Model Policy for Consideration
- Annual Meeting Agenda-at-a-Glance

As a reminder, the attached is not official ALEC model policy until it passes both the Task Force on Education and the ALEC National Board of Director.

I look forward to seeing everyone in San Diego, CA! To ensure a successful and productive meeting, please review all information and model policy. If you have any questions feel free to contact me at lrussell@alec.org or 208-250-6366.

Sincerely,

Lindsay Russell Dexter
Director, Education and Workforce Development

SENATE BILL No. ____

Be it enacted by the General Assembly of the State of [Name of state], as follows:

Sec. xx. Chapter [Citation to state Higher Education Code], is amended by adding thereto one new section, to be known as section [Section Number], to read as follows:

As used in this section, unless the context otherwise requires, the term “institutions of higher education” means those institutions defined in [Citation to state statute].

(1) A student enrolled at an institution of higher education who is accused of a violation of the disciplinary or conduct rules that carries a potential penalty of a suspension of 10 or more days or expulsion shall have the right to be represented at the student's expense by a licensed attorney or, if the student prefers, a nonattorney advocate, who in either case may fully participate during the disciplinary procedure or other procedure adopted and used by the state-supported institution of higher education except as provided under subdivision 1. (2) of this section. When disciplinary proceedings subject to this section arise from a complaint by a student against another student, the complaining student shall also have the right to be represented at his or her own expense by a licensed attorney or, if the complaining student prefers, a nonattorney advocate.

(2) For purposes of this section, “fully participate” includes the opportunity to make opening and closing statements, to examine and cross-examine witnesses, and to provide the accuser or accused with support, guidance, and advice. This section does not require an institution of higher education to use formal rules of evidence in disciplinary proceedings. The institution, however, shall make good faith efforts to include relevant evidence and exclude evidence that is neither relevant nor probative.

(3) Before a student may be questioned by an institution of higher education or by an agent of the institution of higher education about allegations of violations of the institution's disciplinary or conduct rules, where the charges are punishable by a suspension of 10 or more days or expulsion, the university must advise the student of his or her rights under this Act.

(4) A student shall not have the right under this section to be represented by a licensed attorney or nonattorney advocate for any allegation of academic dishonesty as defined by the state-supported institution of higher education.

(5) A student organization that is officially recognized by an institution of higher education and that is accused of a violation of disciplinary or conduct rules shall have the right to be represented, at the student organization's expense, by a licensed attorney or, if the student organization prefers, a nonattorney advocate, who in either case may fully participate during the disciplinary procedure or other procedure adopted and used by the institution of higher education.

(6) For purposes of this section, “disciplinary proceeding” includes an investigatory interview or hearing or any other procedure conducted by the institution of higher education relating to the alleged violation that the student or student organization reasonably believes may result in disciplinary action against the student or organization.

(7) This section does not create a right of a student or student organization to be represented at public expense.

(8) Upon discovering any exculpatory evidence related to the student under investigation for a violation of the student code of conduct that also constitutes a crime, the school administration or law enforcement component of any institution of higher education shall immediately notify, in writing, the accused student of the exculpatory evidence.

(9) Any student or student organization whose rights under this Act have been violated may bring an action in any State Court of competent jurisdiction.

(10) In an action brought under this Section, if the State Court finds a violation of this Act, the Court shall award the aggrieved person or student organization compensatory damages, reasonable court costs, and attorneys' fees, including expert fees, monetary damages of not less than the cost of tuition paid by the student or on the student's behalf to the institution of higher education for the semester during which the violation of the Act occurred, plus monetary damages of not less than the amount of any scholarship funding lost as a result of the campus discipline, and any other relief in equity or law as deemed appropriate including, but not limited to, a *de novo* rehearing at the institution of higher education, in accordance with this section.

(11) A person or student organization must bring suit for violation of this Act not later than one year after the day the cause of action accrues. For purposes of calculating the one-year limitation period, the cause of action shall be deemed accrued on the date that the student or student organization receives final notice of discipline from the institution of higher education.

(12) This Act takes effect on [DATE] and applies to all disciplinary proceedings beginning on or after that date.

SENATE BILL No. _____

Be it enacted by the General Assembly of the State of [Name of state], as follows:

Sec. xx. Chapter [Citation to state Higher Education Code], is amended by adding thereto one new section, to be known as section [Section Number], to read as follows:.

As used in this section, unless the context otherwise requires, the term "institutions of higher education" means those institutions defined in [Citation to state statute].

(1) A student enrolled at an institution of higher education who is accused of a violation of the disciplinary or conduct rules that carries a potential penalty of a suspension of 10 or more days or expulsion shall have the right to be represented at the student's expense by a licensed attorney or, if the student prefers, a nonattorney advocate, who in either case may fully participate during the disciplinary procedure or other procedure adopted and used by the state-supported institution of higher education except as provided under subdivision 1. (2) of this section. When disciplinary proceedings subject to this section arise from a complaint by a student against another student, the complaining student shall also have the right to be represented at his or her own expense by a licensed attorney or, if the complaining student prefers, a nonattorney advocate.

(2) For purposes of this section, "fully participate" includes the opportunity to make opening and closing statements, to examine and cross-examine witnesses, and to provide the accuser or accused with support, guidance, and advice. This section does not require an institution of higher education to use formal rules of evidence in disciplinary proceedings. The institution, however, shall make good faith efforts to include relevant evidence and exclude evidence that is neither relevant nor probative.

(3) Before a student may be questioned by an institution of higher education or by an agent of the institution of higher education about allegations of violations of the institution's disciplinary or conduct rules, where the charges are punishable by a suspension of 10 or more days or expulsion, the university must advise the student of his or her rights under this Act.

(4) A student shall not have the right under this section to be represented by a licensed attorney or nonattorney advocate for any allegation of academic dishonesty as defined by the state-supported institution of higher education.

(5) A student organization that is officially recognized by an institution of higher education and that is accused of a violation of disciplinary or conduct rules shall have the right to be represented, at the student organization's expense, by a licensed attorney or, if the student organization prefers, a nonattorney advocate, who in either case may fully participate during the disciplinary procedure or other procedure adopted and used by the institution of higher education.

(6) For purposes of this section, "disciplinary proceeding" includes an investigatory interview or hearing or any other procedure conducted by the institution of higher education relating to the alleged violation that the student or student organization reasonably believes may result in disciplinary action against the student or organization.

(7) This section does not create a right of a student or student organization to be represented at public expense.

(8) Upon discovering any exculpatory evidence related to the student under investigation for a violation of the student code of conduct that also constitutes a crime, the school administration or law enforcement component of any institution of higher education shall immediately notify, in writing, the accused student of the exculpatory evidence.

(9) Any student or student organization whose rights under this Act have been violated may bring an action in any State Court of competent jurisdiction.

(10) In an action brought under this Section, if the State Court finds a violation of this Act, the Court shall award the aggrieved person or student organization compensatory damages, reasonable court costs, and attorneys' fees, including expert fees, monetary damages of not less than the cost of tuition paid by the student or on the student's behalf to the institution of higher education for the semester during which the violation of the Act occurred, plus monetary damages of not less than the amount of any scholarship funding lost as a result of the campus discipline, and any other relief in equity or law as deemed appropriate including, but not limited to, a *de novo* rehearing at the institution of higher education, in accordance with this section.

(11) A person or student organization must bring suit for violation of this Act not later than one year after the day the cause of action accrues. For purposes of calculating the one-year limitation period, the cause of action shall be deemed accrued on the date that the student or student organization receives final notice of discipline from the institution of higher education.

(12) This Act takes effect on [DATE] and applies to all disciplinary proceedings beginning on or after that date.

SENATE BILL NO. ____

Be it enacted by the General Assembly of the State of [Name of state], as follows:

Section A. Chapter [Citation to state Higher Education Code], is amended by adding thereto one new section, to be known as section [Section Number], to read as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Academic Freedom and Whistleblower Protection Act of 2015."

SEC. 2. DEFINITIONS

- (A) Except as otherwise provided, the term "institution of higher education" refers only to public institutions defined in [CITATION TO STATE STATUTE].
- (B) Except as otherwise provided, the term "faculty" refers to any person, whether or not they are compensated by an institution of higher education, who is tasked with providing scholarship, academic research, or teaching. For purposes of this statute, the term "faculty" shall include tenured and non-tenured professors, adjunct professors, visiting professors, lecturers, graduate student instructors, and those in comparable positions, however titled. For purposes of this statute, the term "faculty" shall not include persons whose primary responsibilities are administrative or managerial.

SEC. 3. FINDINGS.

The General Assembly finds the following:

- (1) The Supreme Court of the United States has long emphasized and understood the importance of free and open expression on our nation's public campuses, proclaiming more than a half-century ago that the "essentiality of freedom in the community of American universities is almost self-evident." *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957). In *Keyishian v. Board of Regents*, 385 U.S. 589, 603 (1967), the Supreme Court explained that academic freedom is a "special concern of the First Amendment," stating that "[o]ur Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned."
- (2) Despite these and other long-established precedents, the Supreme Court placed academic freedom in our nation's public colleges and universities in jeopardy when it held that that a public employee's speech made pursuant to official duties is not protected by the First Amendment in *Garcetti v. Ceballos*, 547 U.S. 410 (2006). The Court acknowledged that its decision "may have important ramifications for academic freedom," but declined to decide whether an exception for the academic setting was warranted ("We need not, and for that reason do not, decide whether the analysis we conduct today

would apply in the same manner to a case involving speech related to scholarship or teaching.”).

- (3) The Court’s *Garcetti* decision has created considerable confusion at universities and in the lower courts. In *Demers v. Austin*, 746 F.3d 402, 412 (9th Cir. 2014), the United States Circuit Court of Appeals for the Ninth Circuit decided, “*Garcetti* does not—indeed, consistent with the First Amendment, cannot—apply to teaching and academic writing that are performed ‘pursuant to the official duties’ of a teacher and professor.” Similarly, the United States Circuit Court of Appeals for the Fourth Circuit concluded in *Adams v. Trustees of the University of North Carolina-Wilmington*, 640 F.3d 550 (4th Cir. 2011), that *Garcetti* did not apply to academic speech submitted as part of a professor’s application for a full tenure professorship. However, in *Savage v. Gee*, 665 F.3d 732 (6th Cir. 2012), the United States Circuit Court of Appeals for the Sixth Circuit expressed skepticism about any exception to *Garcetti* for academic speech. The United States Circuit Court of Appeals for the Seventh Circuit failed to find an academic freedom exception in *Renken v. Gregory*, 541 F.3d 769, 774 (7th Cir. 2008), in which it dismissed the First Amendment claims of a professor who complained of difficulties in administering a grant because “the proper administration of an educational grant fell within the scope of Renken’s teaching duties.”
- (4) Universities frequently ask courts to apply *Garcetti* to faculty expression. At the University of North Carolina-Wilmington, university defendants argued, on a motion for summary judgment, that *Garcetti* precluded a public university professor’s First Amendment claim that the university had retaliated against him for conservative, Christian writings. Similarly, in 2008, a professor brought a First Amendment retaliation claim against officials at Northeastern Illinois University, arguing that the university took adverse action against her because of her comments about the low number of Latino faculty at the university and advocacy on behalf of students arrested at a political protest. The university argued that under *Garcetti*, the First Amendment did not protect the professor’s expression.
- (5) By leaving unanswered the question of whether an academic freedom exception applies to public employee speech doctrine following *Garcetti*, the Supreme Court’s decision threatens academic freedom and free speech.

SEC. 4. ACADEMIC FREEDOM AND WHISTLEBLOWER PROTECTION

(A) No publicly operated institution of higher education, as defined by [Citation to state statute] and amendments to it hereto, shall take adverse personnel action, or maintain a policy that allows it to take adverse personnel action, against a faculty member in retaliation for:

(i) expression related to scholarship, academic research, or teaching, except as provided in subsection (B), herein; or

(ii) disclosure, whether formal or informal, of information the faculty member reasonably believes evidences—

- a. any violation of any law, rule, or regulation; or
- b. gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(B) It shall not be unlawful under this Act for a publicly operated institution of higher education to take adverse personnel action, or to maintain a policy that allows it to take lawful adverse personnel action, against a faculty member for classroom expression that—

- (i) is not reasonably germane to the subject matter of the class, broadly construed; and
- (ii) comprises a substantial portion of classroom instruction.

(C) Any person whose rights under this Act have been violated may bring an action in any state court of competent jurisdiction. In an action brought under this Act, if the court finds that protected expression, as defined in this Act, was a significant motivating factor behind the institution of higher education's decision to take an adverse personnel action, the court shall award the aggrieved person compensatory damages, reasonable court costs, and attorney's fees, including expert fees, or any other relief in equity or law as deemed appropriate, unless the institution of higher education can demonstrate that it would have taken the same personnel action in absence of the protected activity.

(D) [Name of State] shall not be immune under the Eleventh Amendment of the Constitution of the United States from suit for a violation of this Act, provided that the institution of higher education subject to the cause of action has accepted state funding. In a suit against [Name of State] for a violation of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in a suit against any public or private entity other than the state.

(E) A person must bring suit for violation of this Act not later than one year after the day the cause of action accrues. For purposes of calculating the one-year limitation period, the cause of action shall be deemed accrued on the date that the person receives final notice of discipline from the institution of higher education or the date in which the act of retaliation occurred, whichever date is later.

SEC. 5. EXEMPTIONS

This Act shall not apply to any privately operated institution of higher education or to any institution of higher education whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine.

SEC. 6. EFFECTIVE DATE

This Act is effective immediately when it becomes law.

**Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015**

SENATE BILL NO. 2150
(Senators Holmberg, Armstrong, Casper)
(Representatives Delmore, M. Johnson, Larson)

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to student and student organization disciplinary proceedings at institutions under the control of the state board of higher education; to provide for the development of a uniform policy; and to provide for a report to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Disciplinary proceedings - Right to counsel for students and organizations - Appeals.

1. Any student enrolled at an institution under the control of the state board of higher education has the right to be represented, at the student's expense, by the student's choice of either an attorney or a nonattorney advocate, who may fully participate during any disciplinary proceeding or during any other procedure adopted and used by that institution to address an alleged violation of the institution's rules or policies. This right applies to both the student who has been accused of the alleged violation and to the student who is the accuser or victim. This right only applies if the disciplinary proceeding involves a violation that could result in a suspension or expulsion from the institution. This right does not apply to matters involving academic misconduct. Before the disciplinary proceeding is scheduled, the institution shall inform the students in writing of the students' rights under this section.
2. Any student organization officially recognized by an institution under the control of the state board of higher education has the right to be represented, at the student organization's expense, by the student organization's choice of either an attorney or nonattorney advocate, who may fully participate during any disciplinary proceeding or during any other procedure adopted and used by the institution to address an alleged violation of the institution's rules or policies. This right only applies if the disciplinary proceeding involves a violation that could result in the suspension or the removal of the student organization from the institution. This right applies to both the student organization that has been accused of the alleged violation and to the accuser or victim.
3.
 - a. Any student who is suspended or expelled from an institution under the control of the state board of higher education for a violation of the rules or policies of that institution and any student organization that is found to be in violation of the rules or policies of that institution must be afforded an opportunity to appeal the institution's initial decision to an institutional administrator or body that did not make the initial decision for a period of one year after receiving final notice of the institution's decision. The right to appeal the result of the institution's disciplinary proceeding also applies to the student who is the accuser or victim.
 - b. The right of the student or the student organization under subsection 1 or 2 to be represented, at the student's or the student organization's expense, by the student's or the student organization's choice of either an attorney or a nonattorney advocate, also applies to the appeal.
 - c. The issues that may be raised on appeal include new evidence, contradictory evidence, and evidence that the student or student organization was not afforded due process. The

institutional body considering the appeal may consider police reports, transcripts, and the outcome of any civil or criminal proceeding directly related to the appeal.

4. Upon consideration of the evidence, the institutional body considering the appeal may grant the appeal, deny the appeal, order a new hearing, or reduce or modify the suspension or expulsion. If the appeal results in the reversal of the decision or a lessening of the sanction, the institution may reimburse the student for any tuition and fees paid to the institution for the period of suspension or expulsion which had not been previously refunded.
5. For purposes of this section, "fully participate" includes the opportunity to make opening and closing statements, to examine and cross-examine witnesses, and to provide the accuser or accused with support, guidance, and advice. This section does not require an institution to use formal rules of evidence in institutional disciplinary proceedings. The institution, however, shall make good faith efforts to include relevant evidence and exclude evidence which is neither relevant or probative.
6. This section does not affect the obligation of an institution to provide equivalent rights to a student who is the accuser or victim in the disciplinary proceeding under this section, including equivalent opportunities to have others present during any institutional disciplinary proceeding, to not limit the choice of attorney or nonattorney advocate in any meeting or institutional disciplinary proceeding, and to provide simultaneous notification of the institution's procedures for the accused and the accuser or victim to appeal the result of the institutional disciplinary proceeding.

SECTION 2. STATE BOARD OF HIGHER EDUCATION TO DEVELOP POLICY - REPORT TO LEGISLATIVE MANAGEMENT. The state board of higher education shall develop and implement a procedure for student and student organization disciplinary proceedings which is applied uniformly to all institutions under the control of the state board of higher education. Before July 1, 2016, the state board of higher education shall report to the legislative management on the status of the implementation of the uniform procedure.

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 93
98TH GENERAL ASSEMBLY

Reported from the Committee on Education, March 17, 2015, with recommendation that the Senate Committee Substitute do pass.
Senate Committee Substitute for Senate Bill No. 93, adopted March 31, 2015.
Taken up for Perfection March 31, 2015. Bill declared Perfected and Ordered Printed.

0582S.03P

ADRIANE D. CROUSE, Secretary.

AN ACT

To amend chapter 173, RSMo, by adding thereto one new section relating to free speech at public institutions of higher education.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 173, RSMo, is amended by adding thereto one new
2 section, to be known as section 173.1550, to read as follows:

173.1550. 1. The provisions of this section shall be known and
2 cited as the "Campus Free Expression Act". Expressive activities
3 protected under the provisions of this section include, but are not
4 limited to, all forms of peaceful assembly, protests, speeches,
5 distribution of literature, carrying signs, and circulating petitions.

6 2. The outdoor areas of campuses of public institutions of higher
7 education in this state shall be deemed traditional public
8 forums. Public institutions of higher education may maintain and
9 enforce reasonable time, place, and manner restrictions in service of a
10 significant institutional interest only when such restrictions employ
11 clear, published, content, and viewpoint-neutral criteria, and provide
12 for ample alternative means of expression. Any such restrictions shall
13 allow for members of the university community to spontaneously and
14 contemporaneously assemble.

15 3. Any person who wishes to engage in noncommercial expressive
16 activity on campus shall be permitted to do so freely, as long as the
17 person's conduct is not unlawful and does not materially and
18 substantially disrupt the functioning of the institution subject to the

19 requirements of subsection 2 of this section.

20 4. Nothing in this section shall be interpreted as limiting the
21 right of student expression elsewhere on campus.

22 5. The following persons may bring an action in a court of
23 competent jurisdiction to enjoin any violation of this section or to
24 recover compensatory damages, reasonable court costs, and attorney
25 fees:

26 (1) The attorney general;

27 (2) Persons whose expressive rights were violated through the
28 violation of this section.

29 6. In an action brought under subsection 5 of this section, if the
30 court finds a violation, the court shall award the aggrieved persons no
31 less than five hundred dollars for the initial violation, plus fifty dollars
32 for each day the violation remains ongoing.

33 7. A person shall be required to bring suit for violation of this
34 section not later than one year after the day the cause of action
35 accrues. For purposes of calculating the one-year limitation period,
36 each day that the violation persists, and each day that a policy in
37 violation of this section remains in effect, shall constitute a new
38 violation of this section and, therefore, a new day that the cause of
39 action has accrued.

✓

Task Force on Education and Workforce Development Tentative
Subcommittee Meeting Agenda

Annual Meeting 2015 | San Diego,
California Wednesday, July 22, 2015
8:30 – 11:20 AM

Task Force Chairs:

Senator Howard Stephenson, *Utah*, and Mr. Jonathan Butcher, *Goldwater Institute*

8:30 a.m. Call to Order

Welcome and Introductions

Approval of Minutes from Spring Task Force Summit

8:35 a.m. Model Policy Presentation and Review

1. *Dual Language Immersion Act*
2. *1:1 Device Initiative Driven by Outcomes Act*

9:00 a.m. Presentation

'Addressing the Disclosure of Research Supported by Public Funds and Data'

9:20 a.m. Presentation

'Crash Course: EdReformU and the History of the Laws that Built a Movement'

9:40 a.m. Model Policy Presentation and Review

1. *Charter School Authorizing and Accountability Act*
2. *Charter School Funding and Facilities Act*
3. *Charter School Operations and Autonomy*

10:20 a.m. Presentation

'Problems in Suburbia: Why Middle-Class Students Need School Choice, Digital Learning and Better Options'

10:40 a.m. Presentation

'A Plan to Change Public Education'

11:00 a.m. Model Policy Amendment Presentation and Review

1. *Parental Choice Scholarship Program Act*
2. *Great Schools Tax Credit Program Act*
3. *Educational Savings Accounts Act*

11:20 a.m. Good of the Order/Adjournment

To access an electronic copy of these documents, please
visit:

<http://www.alec.org/task-forces/education/>

SENATE BILL NO. _____

Be it enacted by the General Assembly of the State of [Name of state], as follows:

SEC. 1. CAMPUS ANTI-HARASSMENT ACT.

This Act may be cited as the "Campus Anti-Harassment Act."

SEC. 2. FINDINGS.

- (1) Educational institutions should facilitate the free and open exchange of ideas.
- (2) All public educational institutions are required by the First Amendment to the United States Constitution to protect and honor students' freedom of speech.
- (3) Private educational institutions are not bound by the First Amendment to the Constitution. Nevertheless, many private educational institutions explicitly promise students freedom of speech.
- (4) All public educational institutions and and private educational institutions that accept federal funding are obligated under Title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], Title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], Section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.] to take immediate action to eliminate discriminatory harassment, prevent its recurrence, and address its effects.
- (5) In *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999), the Supreme Court of the United States provided a clear definition of peer harassment in the educational context that simultaneously prohibits harassment and protects speech.
- (6) The Court determined that schools must respond to targeted, discriminatory conduct "that is so severe, pervasive, and objectively offensive, and that so undermines and detracts from the victims' educational experience, that the victim-students are effectively denied equal access to an institution's resources and opportunities."
- (7) Despite this clear definition, many educational institutions maintain overly broad or vague harassment policies that threaten students' right to freedom of expression.

SEC. 3. DEFINITIONS.

In this Act:

EDUCATIONAL INSTITUTION- The term 'educational institution' means an institution of higher education that receives state funding, as defined in [Citation to state statute];

SEC. 4. ELIMINATING DISCRIMINATORY HARASSMENT AND PROTECTING FREE SPEECH.

- 1) Educational institutions are prohibited from punishing as harassment speech that does not constitute actionable harassment as defined herein.
- 2) Speech shall only constitute actionable harassment when directed at an individual and:
 - (a) part of a pattern of unwelcome conduct that is discriminatory on the basis of race, color, national origin, disability, religion, age, sex, sexual orientation, or gender;
 - (b) so severe, pervasive, and objectively offensive;
 - (c) and that so undermines and detracts from the victim's educational experience that the victim-student is effectively denied equal access to an institution's resources and opportunities.
- 3) An educational institution is not liable under this Act for failing to punish speech that does not satisfy Section 4(2) herein.
- 4) Nothing in this Act prohibits an educational institution from being held liable for deliberate indifference to known acts of actionable harassment in the educational context.

SEC. 5. CAUSE OF ACTION.

- 1) The following persons may bring an action in any State court of competent jurisdiction to enjoin violation of this Act. The court may award compensatory damages, reasonable court costs, and attorneys' fees, including expert fees, or any other relief in equity or law as deemed appropriate:
 - a) the attorney general;
 - b) any aggrieved person whose expressive rights were infringed upon through violation of this Act.
- 2) In an action brought under Section 5, if the court finds a violation of this Act, the court shall award the aggrieved person not less than \$1000.
- 3) The state shall not be immune under the Eleventh Amendment of the Constitution of the United States from suit in Federal court for a violation of this Act.
- 4) In a suit against the state for a violation of this statute referred to in section (1), remedies (including remedies both at law and in equity) are available for such a

violation to the same extent as such remedies are available for such a violation in a suit against any public or private entity other than the state.

SEC. 6. STATUTE OF LIMITATIONS.

- 1) A person must bring suit for for violation of this Act not later than one year after the day the cause of action accrues;
- 2) For purposes of calculating the one-year limitation period, the cause of action shall be deemed accrued on the date that the student receives final notice of discipline from the educational institution for the speech as defined herein.

SEC. 7. EXEMPTIONS

- 1) This Act shall not apply to:
 - (a) an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization; or
 - (b) an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine.

Dual Language Immersion Program Act {Utah}

Summary

The purpose of this Act {Utah} is to reform the Critical Languages Program by modifying it to the Dual Language Immersion Program as a pilot program while also making technical corrections.

Legislation

Section 1. {Definition}

The term “critical languages” means the languages stated in the federal National Security Language Initiative, including Chinese, Arabic, Russian, Farsi, Hindi, and Korean.

Section 2. {Course Development}

(A) The State Board of Education {Utah} shall develop a course taught in one of the aforementioned “critical languages” in the state’s public education system by means of

- (1) An interactive system composed of video and audio;
- (2) An online high school;
- (3) Traditional high school settings; or
- (4) By visiting designated “critical languages” teachers.

(B) The courses in Section 2 may employ paraprofessionals who:

- (1) Are fluent in the critical language of the course;
- (2) Can reinforce and tutor students on days when students are not participating in the two- way interactive classroom in Section 2(A)(1)
- (3) The State Board of Education {Utah}, through the state superintendent of public instruction, will ensure the paraprofessionals are fluent in the critical languages.

(C) The State Board of Education {Utah} shall make rules on the critical language courses to include:

- (1) Notification to school districts on the times and places of the course offerings; and
- (2) Instructional materials for the courses.

25 (D) The State Board of Education {Utah} shall track and monitor the progress of the Critical Languages Program
26 and may expand the program to include more course offerings and other critical languages, subject to student
27 demand for the courses and available resources.

28 (E) Subject to funding for the program, the State Board of Education {Utah} shall establish a pilot pro- gram for
29 school districts and schools to initially participate in the Critical Languages Program that pro- vides:

30 (1) Up to \$6,000 per language per school, for up to 60 schools, for courses offered in critical languages;

31 (2) Up to \$100 per student who completes a critical language course; and

32 (3) Up to an additional \$400 per foreign exchange student who completes a critical languages course;
33 however,

34 (4) If the available funding is insufficient to provide the amounts described under Section 2(E), the
35 amounts provided shall be reduced pro rata so that the total provided does not exceed the available
36 funding.

37 **Section 3. {Dual Language Immersion Pilot Program}**

38 (A) Subject to funding for the program, the State Board of Education {Utah} shall establish a pilot pro- gram for
39 school districts and schools to initially participate in the Critical Languages Immersion Pro- gram.

40 (B) The program shall provide funds as an incentive to 15 qualifying schools for the following languages:

41 (1) Six pilots for Chinese;

42 (2) Six pilots for Spanish;

43 (3) Two pilots for French; and

44 (4) One pilot for Navajo.

45 (C) Subject to funding for the program, a qualifying school shall:

46 (1) Receive up to \$18,000 per year for up to six years;

47 (2) Establish an instructional model that uses 50 percent of instruction in English and 50 percent
48 instruction in another language; and

(3) Begin the instructional model described under Subsection (C)(2) in kindergarten or grade 1 and add an additional grade each year.

Section 4. {One-time Appropriation}

(A) There is appropriated \$750,000 from the Uniform School Fund for one fiscal year only to the State Board of Education {Utah}.

(B) It is the intent of the Legislature that the appropriation under Subsection (A) be:

(1) Used to provide:

(a)) \$480,000 to the Critical Languages Program established in Section 2; and

(b) \$270,000 to the Dual Language Immersion Program established in Section 3; and

(2) Nonlapsing.

Digital Teaching and Learning Program {Utah}

Summary

This bill creates the Digital Teaching and Learning Program for public schools, a qualifying grant program for local education agencies (LEA), to improve student outcomes through the use of digital teaching and learning technology and educator professional development.

Legislation

Section 1. {Definitions}

(A) "Advisory committee" means the Digital Teaching and Learning Advisory Committee.

(B) "Board" means the State Board of Education {Utah}.

(C) "Core subject areas" means the following subject areas:

(1) English language arts;

(2) Mathematics;

(3) Science; and

(4) Social studies.

(D) "Education consultant" means the person selected by the UETN board.

(E) "Education technology provider" means a person selected by the UETN board.

(F) "Educator" means an individual who holds or is required to hold a license, under Title 52A, Chapter 6, Educator Licensing and Professional Practices Act.

(G) "High quality professional learning" means a comprehensive, sustained, and intensive approach to improving educator effectiveness in raising student achievement and improving the school level outcomes that meet the professional learning standards described below.

(H) "Independent evaluator" means the person selected by the board.

(I) "LEA plan" means an LEA's plan to implement the program.

(J) "Local education agency" or "LEA" means:

(1) A school district;

(2) A charter school; or

(3) The {Utah} Schools for the Deaf and the Blind.

(K) "Master plan" means the master plan developed by the UETN board, with final approval of the board.

(L) "Program" means the Digital Teaching and Learning Program described in this part.

30 (M) "Qualifying LEA" means an LEA identified by the UETN board as eligible to receive a grant through the
31 program.

32 (N) "Statewide assessment" means a criterion-referenced test of student achievement in English
33 language arts, mathematics, or science, including a test administered in a computer adaptive format,
34 which is administered statewide under Part 6, Achievement Tests {Utah}.

35 (O) "{Utah} Education and Telehealth Network" or "UETN" means the {Utah} Education and Tele- health
36 Network created in Section 53B-17-105.

37 **Section 2. {Digital Teaching and Learning Program}**

38 (A) There is created the Digital Teaching and Learning Program, a qualifying grant program for qualifying
39 LEAs, to improve student outcomes through the use of digital teaching and learning technology and
40 educator professional development.

41 **Section 3. {Digital Teaching and Learning Program Advisory Committee}**

42 (A) There is created the Digital Teaching and Learning Program Advisory Committee to:

43 (1) Assist the UETN board with developing selection criteria for and selecting the education
44 consultant described in Section 4; and

45 (2) Provide input on the development of the master plan described in Section 5.

46 (B) The advisory committee shall consist of:

47 (1) The following members appointed by the UETN board:

48 (a) One member who has extensive digital educational content experience related to
49 curriculum and learning standards;

50 (b) One member who is:

51 (i) An assistant superintendent for curriculum and instruction; or

- (ii) A principal who has extensive experience with a technology program;
- (c) One member who has extensive experience with mobile device and connectivity infrastructure;
- (d) One member with demonstrated change leadership or change management expertise;
- (e) One member who is a teacher recognized as a leader in implementing a technology program;
- (f) One member who has extensive experience in independent program evaluation of technology initiatives;
- (g) One member who has extensive experience and demonstrated leadership in college and career readiness;
- (h) One member who represents business with expertise in the state requirements for a skilled workforce;
- (i) One member who is a technology expert from an urban LEA;
- (j) One member who is a technology expert from a rural LEA;
- (k) One member of the Senate; and
- (l) One member of the House of Representatives;
- (m) The executive director of the UETN; and
- (n) The state superintendent of public instruction.

(C) The UETN board shall weigh heavily an individual's reputation as a national leader in the individual's area of expertise when appointing the members described in Subsections (B) (1) (a) (d) (e) (g) (h).

72 (D) When a vacancy occurs in the membership of the advisory committee appointed under
73 Subsection (B) (1), for any reason, the UETN board shall appoint a replacement member who
74 meets the same criteria as the vacated member.

75 (E) The executive director of UETN and the state superintendent of public instruction shall
76 serve as co- chairs for the advisory committee.

77 (F) The advisory committee shall meet when a meeting of the advisory committee is called by
78 an advisory committee chair.

79 (G) (1) A quorum of the advisory committee is eight members.

80 (2) Approval by the greater of the following is required to constitute an action of the
81 advisory committee:

82 (a) A majority of the members present at an advisory committee meeting; or

83 (b) Seven members.

84 (H) A member may not receive compensation or benefits for the member's service, but may
85 receive per diem and travel expenses in accordance with:

86 (1) Section 63A-3-106;

87 (2) Section 63A-3-107; and

88 (3) Rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

89 (I) UETN staff shall staff the advisory committee.

90 **Section 4. {Education consultant – Education technology providers – Monitoring student**
91 **usage of technology}**

(A) (1) On or before June 30, 2015, in consultation with the board and the advisory committee, the UETN board shall select, through a request for proposals process, a single education consultant with integrated whole-school learning and teaching technology deployment experience.

(2) The education consultant shall advise the board, the UETN board, and the advisory committee as provided in this part, including consulting with the board, the UETN board, and the advisory committee in:

(a) The development of the master plan under Section 5;

(b) The selection of education technology providers under Subsection (B);

(c) The development of LEA plans; and

(d) The review and approval of LEA plans under Section 6.

(3) The education consultant may not be selected as an education technology provider or assist any person in responding to a request for proposals described in Subsection (B).

(B) (1) In consultation with the board and the education consultant, the UETN board shall, through a prequalification process described in Section 63G-6a-403, identify prequalified education technology providers that a qualifying LEA may select to work with to implement the program by providing the following goods or services:

(a) Wireless network infrastructure or infrastructure related to digital teaching and learning;

(b) Hardware related to digital teaching and learning, including laptop computers or mobile devices;

(c) Digital licensed and unlicensed content, resources, and programs to accelerate student learning in mobile digital teaching and learning;

(d) Software that provides a digital learning platform that:

(i) Is modular and integrated via an open standards architecture;

(ii) Provides a classroom, school, and system-wide digital assessment system that tracks student progress against the state standards of learning established by the board;

(iii) Includes comprehensive digital curriculum mapping, assessment, and performance data aggregation and related reporting that is accessible to students, teachers, administrators, and parents;

(iv) Includes collaboration and communication tools and integration via applicable interoperability standards; and

(v) Is capable of integrating with the state's or LEA's student information system;

(e) Technology support services; or

(f) Professional learning for educators, administrators, and support staff related to the program.

(2) A person who responds to the request for a statement of qualifications under the prequalification process described in Subsection (B)(1) shall submit:

(a) A list of products and services the person can provide as an education technology provider;

(b) A proposal on how the person's products or services meet:

(i) The criteria described in Subsection (B)(1); and

(ii) The goals and criteria of the state's master plan described in Section 5; and

(c) A disclosure of all exclusive financial arrangements with education publishers, other education technology providers, or education companies.

(C) In evaluating a statement of qualifications under the prequalification process described in Subsection (B)(1), the UETN board's evaluation criteria shall weigh heavily the person's ability to prepare and customize the person's products or services to meet the objectives of a participating LEA's LEA plan.

(D) In prequalifying the education technology providers under Subsection (B), the UETN board shall prequalify education technology providers that allow an LEA to:

(1) Select an education technology provider to assist in the development and implementation of an LEA plan under Section 53A-1-1209; or

(2) Select specific products or services provided by one or more education technology providers.

(E) After identifying prequalified education technology providers as described in Subsection (B), the UETN board shall follow the request for proposals process described in Title 63G, Chapter 6a, {Utah} procurement Code {Utah}, to select education technology providers from the prequalified education technology providers identified in Subsection (B).

(F) The UETN board shall ensure that:

(1) A contract with an education technology provider selected under this section will include a performance accountability section; and

(2) The performance accountability section described in Subsection (F)(1) defines:

(a) Penalties or consequences, if the qualifying LEA, using the services of the education technology provider selected under this section, does not meet student performance outcome benchmarks described in Subsection 53A-1-1208(6); and

(b) Requirements that a qualifying LEA shall meet for the education technology provider selected under this section to receive compensation.

(G) Annually, within 30 days of the publication of results on a statewide assessment, the UETN board shall publish a report detailing the correlation of the use of each education technology provider's products and services selected under this section and the student academic achievement, as measured by the student results on a statewide assessment.

(H) (1) The UETN board shall select, through a request for proposals process, one or more education technology providers to provide licenses for software that monitors student usage of technology in qualifying LEA schools.

(2) In evaluating education technology provider proposals submitted in response to the request for proposals described in Subsection (H)(1), the UETN board shall ensure that the evaluation criteria weigh heavily the extent to which the software:

(a) Monitors, in detail, application usage and website access of all student

computing devices that are purchased with program money;

(b) Allows public access to aggregate student device utilization data at the state, school district, and school level;

(c) Protects student data from being accessed by unauthorized users; and

(d) When used, is compliant with the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

(I) (1) The UETN board shall distribute a license for the software described in Subsection (H) to a qualifying LEA.

(2) A qualifying LEA shall install the software described in Subsection (H) on a device used by a student.

(J) In a contract with an education technology provider described in this section, the UETN board and a qualifying LEA shall:

(1) Require an education technology provider to use student information received as part of providing services to the UETN board, board, or qualifying LEA, strictly for the purpose of providing the contracted services to the UETN board, board, or qualifying LEA; and

(2) Prohibit an education technology provider from:

(a) Using student information received as part of providing services to the UETN board, board, or qualifying LEA, for a use not described in the contract;

(b) Collecting student information that is unrelated to the services the education

technology provider is required to perform pursuant to a contract with the
UETN board, board of qualifying LEA; or

Section 5. {Master plan}

(A) (1) In consultation with the board, the education consultant, and the advisory committee, the UETN board shall develop a master plan for the program to integrate the program into the state's public education system.

(2) The UETN board shall submit the master plan to the board for final approval.

(B) Consistent with this part, the master plan shall include:

(1) A statement of purpose that describes the objectives or goals the UETN board will accomplish by implementing the program;

(2) A forecast for fundamental components of the program, including a forecast for:

(a) Student and teacher devices;

(b) Wi-Fi and wireless compatibility technology;

(c) Curriculum software;

(d) Assessment solutions;

(e) Technical support;

(f) Change management of LEAs;

(g) Professional development;

(h) Internet delivery and capacity; and

(i) Security and privacy of users;

(3) A determination of the requirement for:

(a) Statewide technology infrastructure; and

(b) Local LEA technology infrastructure;

(4) Standards for high quality professional learning related to implementing and maintaining the program;

(5) A detailed definition of at least one type of device to be used by LEAs and distributed to educators and students;

(6) A statewide technical support plan that will guide the implementation and maintenance of the program, including standards and competency requirements for technical support personnel;

(7) A grant program for qualifying LEAs developed in accordance with Section 6;

(8) Specifications for an LEA plan that include:

(a) Format and submission requirements; and

(b) Other LEA plan requirements, including the requirements described in Section 53A-1-1209;

(9) An inventory of the state public education system's current technology resources, including software, and a plan to integrate those resources into the program;

(10) An ongoing evaluation process that is:

(a) Overseen by the board;

(b) Performed by the independent evaluator selected in Section 53A-1-1210; and

(c) Based on the criteria described in Section 53A-1-1210;

(11) Proposed rules that incorporate the principles of the master plan into the state's public education system as a whole; and

(12) A plan to ensure long-term sustainability that:

(a) Accounts for the financial impacts of the program; and

(b) Facilitates the redirection of the LEA savings that arise from implementing the program.

(C) The UETN board shall integrate into the master plan privacy and security requirements of:

(1) Federal law;

(2) Sections 53A-13-301 and 53A-13-302; and

(3) Rules developed by the board.

(D) The UETN board shall complete the master plan on or before December 1, 2015.

Section 6. {Digital Teaching and Learning Grant Program – Grant money uses}

(A) (1) In accordance with this part, the UETN board, in consultation with the board and the advisory committee, shall identify LEAs that qualify to receive a grant described in this section.

(2) The board shall distribute grant money to a qualifying LEA:

(a) Identified by the UETN board as a qualifying LEA; and

(b) In accordance with the distribution requirements of Section 53A-1-1208.

!53 (B) (1) The UETN board may only approve an LEA's grant application and designate the LEA as a
!54 qualifying LEA if:

!55 (a) The LEA's LEA plan complies with the requirements described in
!56 Section 53A-1- 1209;

!57 (b) The UETN board determines that the LEA's LEA plan is rigorous and
!58 complete; and

!59 (c) At least 11 members of the advisory committee vote in favor of approving
!60 the LEA's.

!61 (2) The advisory committee shall:

!62 (a) Keep a record of advisory committee member votes for and against approval
!63 of each LEA plan, including the name of each advisory committee member who
!64 voted for or against each LEA plan; and

!65 (b) Publish the record of advisory committee member votes described in
!66 Subsection (B)(2)(a) on a website accessible by:

!67 (i) The UETN board;

!68 (ii) The board;

!69 (iii) An LEA and

!70 (iv) A member of the public.

!71 (C) The UETN board shall condition a grant on:

- (1) UETN board approval of the LEA's plan;
- (2) Satisfactory progress toward achieving the participating LEA's LEA plan objectives, goals, and outcomes;
- (3) The LEA providing matching funds as described in Subsection (E); and
- (4) Completion by the qualifying LEA of any UETN board requirement specific to receiving the grant award.

(D) (1) An LEA grant applicant shall submit an LEA plan to the UETN board for approval.

(2) The UETN board shall:

- (a) Review applicant LEA plans;
- (b) Identify qualifying LEAs to receive grant money; and
- (c) (i) Approve the LEA plans of qualifying LEAs; or
(ii) Make recommendations to LEAs on how to improve LEA plans.

(E) (1) A qualifying LEA shall use grant money to contract with one or more of the technology providers identified by the UETN board in Section 4.

(2) A qualifying LEA may contract with an education technology provider that was not identified by the UETN board as a prequalified education technology provider under Section 53A-1-1206; if:

- (a) The education technology provider proposed in the LEA's LEA plan meets the criteria described in Subsection 4(B);

(b) The LEA had a contract or other relationship with the education technology provider prior to the LEA submitting the LEA's LEA plan; and

(c) The LEA's contract or other relationship with the education technology provider proposed in the LEA plan was created in compliance with Title 63G, Chapter 6a, {Utah} Procurement Code.

(F) A qualifying LEA may not use grant money:

(1) To supplant money previously used for the LEA's existing technology program;

(2) To fund nontechnology programs;

(3) To purchase mobile telephones; or

(4) To fund voice or data plans for mobile telephones.

Section 7. {Distribution of grant money to qualifying LEAs}

(A) The board shall distribute money appropriated for the program to qualifying LEAs as described in this section.

(B) (1) The amount available to distribute to qualifying charter schools is an amount equal to the product of:

(a) Enrollment on October 1 in the prior year at charter schools statewide,
divided by enrollment on October 1 in the prior year in public schools statewide;
and

(b) The total amount available for distribution under this section.

(2) The board shall distribute to qualifying charter schools the amount available for Digital Teaching and Learning Program Act

distribution to qualifying charter schools:

(a) In proportion to each qualifying charter school's enrollment as a percentage of the total enrollment in qualifying charter schools; or

(b) As determined by the State Charter School Board and approved by the board.

(C) The board shall distribute grant money to the {Utah} Schools for the Deaf and the Blind in an amount equal to the product of:

(1) Enrollment on October 1 in the prior year at the {Utah} Schools for the Deaf and the Blind, divided by enrollment on October 1 in the prior year in public schools statewide; and

(2) The total amount available for distribution under this section.

(D) Of the funds available for distribution under this section after the allocation of funds for the {Utah} Schools for the Deaf and the Blind and qualifying charter schools, the board shall distribute grant money to qualifying LEAs that are school districts as follows:

(1) The board shall distribute two-thirds of the total funding available for qualifying LEAs that are school districts to the qualifying LEAs according to a funding formula adopted by the board that considers:

(a) The property tax effort of the school district, giving more funding to a school district making a high tax effort; and

(b) The school district's ability to generate property tax revenue based on the per-student taxable value of property within the boundary of the school district, giving more funding to a school district with low taxable value per-student; and

(2) The board shall distribute one-third of the total funding available for qualifying LEAs that are school districts to the qualifying LEAs as follows:

(a) 10 percent of the funds shall be distributed on an equal basis; and

(b) The remaining 90 percent of the funds shall be distributed to the qualifying LEAs on a per-student basis.

(E) (1) Subject to the provisions of Subsections (E)(2) and (3), each LEA has an opportunity to receive an amount of money equal to the amount of money that the LEA would receive in year one of the program if the LEA's LEA plan had been approved in year one as described in Section 6.

(2) If an LEA's LEA plan is not approved during year one of the program, the board shall deposit the LEA's allocation of program money described in Subsection (E)(1) into a separate account that is non-lapsing.

(3) The board shall advise an LEA the LEA's allocation of the year on program money in a subsequent year of the program if:

(a) The LEA's LEA plan was not approved during year one of the program; and

149 (b) In the subsequent year, the LEA's LEA plan is approved as described in

150 Section 6.

151 (E) (1) The board shall set minimum improvement benchmark standards in the school level
152 outcomes described in Subsection (8)(A) that an LEA shall use to establish the LEA's minimum
153 improvement benchmarks described in Subsection (8)(D).

154 (2) The board may only distribute the following money to a qualifying LEA in year two
155 and subsequent years if the qualifying LEA meets the minimum improvement
156 benchmarks set in the qualifying LEA's LEA plan:

157 (a) For a qualifying LEA that is a charter school, one-third of the money the
158 qualifying LEA would receive from a distribution described in Subsection (B);

159 (b) For a qualifying LEA that is the {Utah} Schools for the Deaf and the Blind,
160 one-third of the money the {Utah} Schools for the Deaf and the Blind
161 would receive from a distribution described in Subsection (C); and

162 (c) For a qualifying LEA that is a school district, the money the qualifying LEA
163 would receive from a distribution described in Subsection (D)(2).

164 (3) When setting the minimum improvement benchmark standards described in
165 Subsection (E)(1) for year two, the board shall require an LEA to give substantially equal
166 weight to:

167 (a) The extent to which the qualifying LEA follows, and complies with, the
Digital Teaching and Learning Program Act

qualifying LEA's LEA plan; and

(b) The extent to which the school level and student academic outcomes

described in Subsections (8)(A)(2) and (8)(A)(3).

(4) When setting the minimum improvement benchmark standards described in

Subsection (E)(1) for year three and subsequent years, the board shall require an LEA's

minimum improvement benchmarks to be based solely on the school level outcomes as

defined in Subsections (8)(A)(2) and (8)(A)(3).

(F) If a qualifying LEA fails to meet the minimum improvement benchmarks included in the qualifying LEA's LEA plan and loses the qualifying LEA's distribution described in Subsection (E)(2), the qualifying LEA may resubmit the qualifying LEA's LEA plan for approval, including goals to improve student performance and meet the minimum improvement benchmarks in the LEA plan.

(G) Beginning with year four of the program, the board shall proportionately decrease a qualifying LEA's funding under this section:

(1) If only a percentage of the qualifying LEA's students participate in the program; and

(2) By an amount equal to the percentage of the qualifying LEA's students that do not participate in the program.

Section 8. {LEA plans}

(A) An LEA plan submitted to the UETN board for participation in the program shall include:

(1) A statement of purpose that describes the learning objectives, goals, and measurable

outcomes the LEA will accomplish by implementing the program;

(2) Design criteria that enable the LEA to improve the following school level outcomes:

(a) Student achievement on statewide assessments; and

(b) Cost savings and improved efficiency relating to instructional materials,
facilities, and maintenance;

(3) In addition to the required school level outcomes described in Subsection (A)(2),
design criteria that enable the LEA to improve other school level outcomes, including:

(a) Attendance,

(b) Discipline incidents;

(c) Parental involvement;

(d) Citizen involvement;

(e) Graduation rates;

(f) Student enrollment in higher education;

(g) Dropout rates;

(h) Student technology proficiency for college and career readiness; and

(i) Teacher satisfaction and engagement;

(4) An implementation process structured to yield the desired outcomes;

(5) A plan for infrastructure acquisition;

(6) A process for procurement and distribution of the goods and services the LEA intends to use as part of the LEA's implementation of the program;

(7) A description necessary high quality, digital instructional materials aligned with UETN board standards;

(8) A detailed plan for student engagement in personalized learning;

(9) Technical support standards for implementation and maintenance of the program that:

(a) Include support for hardware and Internet access; and

(b) Remove technical support burdens from the classroom teacher;

(10) Proposed security policies, including security audits and remediation of identified lapses;

(11) An inventory of the LEA's current technology resources, including software, and a description of how the LEA will integrate those resources into the LEA's implementation of the program;

(12) A disclosure by the LEA of the LEA's current technology expenditures;

(13) A description of how the LEA will:

(a) Provide high quality professional learning for educators, administrators, and support staff participating in the program, including ongoing periodic coaching;

(b) Provide special education students with appropriate software; and

(c) Meet other criteria established by the UETN board; and

(14) Except as provided in Subsection (C), an assurance that the LEA will implement the program in an entire school at a time and not introduce the program into schools in a partial manner.

(B) An LEA shall include the LEA's proposed implementation of the program over multiple years in the LEA plan.

(C) (1) An LEA is not required to implement the program an entire school at a time in an elementary school.

(2) An LEA is not required to implement the program in kindergarten through grade 4.

(D) An LEA plan shall include minimum improvement benchmarks in the school level outcomes described in Subsections (A)(2) and (A)(3):

(1) That the LEA will be required to meet for the LEA to continue to:

(a) Receive funding described in Subsection 7(E)(2); and

(b) Participate in the program in years three and on; and

(2) In accordance with the minimum improvement benchmark standards developed by the board in Subsection 7(E).

(E) As part of the LEA's LEA plan, an LEA may propose to contract with an education technology provider that was not identified by the UETN board as a prequalified education technology provider under Subsection 4(B) if:

Digital Teaching and Learning Program Act

(1) The education technology provider proposed in the LEA's LEA plan meets the criteria described in Subsection 4(B);

(2) The LEA had a contract or other relationship with the education technology provider prior to the LEA submitting the LEA's LEA plan; and

(3) The LEA's contract or other relationship with the education technology provider proposed in the LEA plan was created in compliance with Title 63G, Chapter 6a, {Utah} Procurement Code.

(F) (1) As part of the LEA's LEA plan, and LEA may propose to:

(a) Scale the LEA's program implementation; or

(b) Limit the number of students within the LEA who will participate in the program.

(2) If the LEA scales the LEA's program implementation or limits the number of students within the LEA who will participate in the program as described in Subsection (F)(1), beginning with year four of the program, the board shall proportionately decrease the LEA's program money as described in Section 7(G).

(G) In preparing an LEA plan, an LEA shall encourage participation and input from parents, educators, technology support personnel, and school community councils.

(H) An LEA may subject an LEA plan to a peer review.

162 **Section 9. {Board evaluation of program – Selection of an independent evaluator – UETN**
163 **board and State Board of Education reporting requirements}**

164 (A) In accordance with this section, the board shall oversee the ongoing review and evaluation to act as
165 an independent contractor in assisting the board in the evaluation process under this section.

166 (B) (1) The board shall select, through a request for proposals process, an independent
167 evaluator to act as an independent contractor in assisting the board in the evaluation process
168 under this section.

169 (2) The independent evaluator may not be a technology provider selected by the UETN
170 board under this part or assist any person in responding to a request for proposals
171 issued by the UETN board or by an LEA using money received under this party.

172 (3) The independent evaluator shall comply with the rules developed by the board and
173 the UETN board under this party.

174 (C) Under the direction of the board, the independent evaluator shall:

175 (1) Review and evaluate the program using the criteria described in Subsection (D);

176 (2) Report to the board on the criteria described in Subsection (D) annually;

177 (3) Identify best practices within the program as required in Subsection (E); and

178 (4) Perform other related tasks assigned to the independent evaluator by the board.

179 (D) The independent evaluator shall review and evaluate the program as required by this
180 section using the following criteria:

181 (1) Student achievement in core subject areas as measured by statewide assessments
Digital Teaching and Learning Program Act

administered pursuant to Section 53A-1-603 {Utah};

(2) Student learning growth on statewide assessments in core subject areas administered

pursuant to Section 53A-1-603 {Utah};

(E) The independent evaluator shall:

(1) Identify best practices for program implementation based on:

(a) The independent evaluator's overall review of the program; and

(b) Independent research;

(2) Share the best practices identified in Subsection (E)(1) with:

(a) Participating LEAs;

(b) The board through the independent evaluator's annual report to the board;

and

(c) The UETN board; and

(3) Make recommendations to the board and the UETN board on modifications of LEA

plans for qualifying LEAs both individually and collectively.

(F) The board and the UETN board shall jointly report annually to the Education Interim

Committee on or before the committee's November meeting regarding:

(1) The status of the program, including the level of technology integration in individual

qualifying LEAs; and

(2) The results of the ongoing review and evaluation conducted under this section.

Section 10. {Qualification for assistance}

(A) Except as provided in Section 63M-1-908 or 63M-1-909, the administrator shall determine which industries, companies, and individuals qualify to receive money from the Industrial Assistance Account. Except as provided by Subsection (B), to qualify for financial assistance from the restricted account, an applicant shall:

(1) Demonstrate to the satisfaction of the administrator that the applicant will expend funds in {Utah} with employees, vendors, subcontractors, or other businesses in an amount proportional with money provided from the restricted account at a minimum ratio of 2 to 1 per year or other more stringent requirements as established from time to time by the board for a minimum period of five years beginning with the date the loan or grant was approved;

(2) Demonstrate to the satisfaction of the administrator the applicant's ability to sustain economic activity in the state sufficient to repay, by means of cash or appropriate credits, the loan provided by the restricted account; and

(3) Satisfy other criteria the administrator considers appropriate.

(B) (1) The administrator may exempt an applicant from the requirement of Subsection (A)(1) or (2) if:

(a) The financial assistance is provided to an applicant for the purpose of

locating all or any portion of its operations to an economically disadvantaged

rural area;

(b) The applicant is part of a targeted industry;

(c) The applicant is a quasi-public corporation organized under Title 16, Chapter

6a, {Utah} Revised Nonprofit Corporation Act, of Title 63E, Chapter 2,

Independent Corporations Act, and its operations, as demonstrated to the

satisfaction of the administrator, will provide significant economic stimulus to

the growth of commerce and industry in the state; or

(d) The applicant is an entity offering an economic opportunity under

Section 63M-1-909.

(2) The administrator may not exempt the applicant from the requirement under

Subsection 63M-1-909(2)(b) that the loan be structured so that the repayment or return

to the state equals at least the amount of the assistance together with an annual interest

charge.

(C) The administrator shall:

(1) For applicants not described in Subsection (B)(1):

(a) Make findings as to whether or not each applicant has satisfied each of the

conditions set forth in Subsection (A); and

(b) Monitor the continued compliance by each applicant with each of the

conditions set forth in Subsection (A) for five years;

(2) For applicants described in Subsection (B)(1), make findings as to whether the economic activities of each applicant as resulted in the creation of new jobs on a per capita basis in the economically disadvantaged rural area or targeted industry in which the applicant is located;

(3) Monitor the compliance by each applicant with the provisions of any contract or agreement entered into between the applicant and the state as provided in Section 63M-1-907; and

(4) Make funding decisions based upon appropriate findings and compliance.

Section 11. {Repealer}

This bill repeals: Section 53A-1-709, **Smart School Technology Program**; Section 63M-1-909.5, **Selection of educational technology provider to implement whole-school one-to-one mobile device technology deployment plan for schools.**

Section 12. {Appropriation for fiscal year 2014-2015}

(A) Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To the {Utah} Education and Telehealth Network

From Education Fund, one-time \$907,500

Schedule of Programs:

Digital Teaching and Learning Program \$907,500

The legislature intends that:

(B) The {Utah} Education and Telehealth Network use the appropriations under this section to immediately begin implementation of the Digital Teaching and Learning Program created in Title 53A, Chapter 1, Part 12, Digital Teaching and Learning Program; and

(C) The appropriation under this section be:

(1) One-time; and

(2) non-lapsing.

Section 13. {Appropriation for fiscal year 2015-16}

(A) Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To State Board of Education – Utah State Office of Education – Initiative Programs

From Education Fund \$16,350,000

From Education Fund, one-time \$50,000,000

Schedule of Programs:

Contracts and Grants – Digital Teaching and Learning Program \$66,350,000

To the {Utah} Education and Telehealth Network

From Education Fund \$8,650,000

Digital Teaching and Learning Program Act

Schedule of Programs:

Digital Teaching and Learning Program	\$8,650,000
---------------------------------------	-------------

The Legislature intends that:

(B) The State Board of Education:

(1) Shall use \$65,000,000 of the appropriation to the State Board of Education under this section to distribute grant money to qualifying LEAs as described in Sections 6 and 7.

(2) may use up to \$1,000,000 of the appropriation to the State Board of Education to contract with an independent evaluator to conduct an evaluation of the Digital Teaching and Learning Program as required by Section 9; and

(3) may use up to \$350,000 of the appropriation to the State Board of Education to oversee and evaluate the Digital Teaching and Learning Program created in Title 53A, Chapter 1, Part 12, Digital Teaching and Learning Program;

(C) The {Utah} Education and Telehealth Network:

(1) May use up to \$6,700,000 of the appropriation to the Utah Education and Telehealth Network for infrastructure and technology support for the Digital Teaching and Learning Program created in Title 53A, Chapter 1, Part 12, Digital Teaching and Learning Program;

(2) May use up to \$750,000 of the appropriation to the {Utah} Education and Telehealth Network to contract with an education consultant as required by Section 4;

(3) May use up to \$850,000 of the appropriation to the {Utah} Education and Telehealth Network to administer and implement the Digital Teaching and Learning Program created in Title 53A, Chapter 1, Part 12, Digital Teaching and Learning Program; and

(4) May use up to \$350,000 of the appropriation to the {Utah} Education and Telehealth Network to contract with one or more technology providers to provide software to monitor student and teacher usage of technology in qualifying LEA schools as required in Section 4;

and

(D) The appropriations under this section be:

(1) Ongoing; and

(2) Non-lapsing

Section 14. {Effective date}

(A) Except as provided in Subsection (B), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(B) Uncodified Section 14, Appropriation, takes effect on July 1, 2015.